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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Dabak**Docket Number: **TI-29324**Serial No.: **09/591,888**Art Unit: **2885**Filed: **08/09/2000**Examiner: **D.J. Ryman**

For: **IMPROVED RANDOM ACCESS PREAMBLE CODING FOR INITIATION OF
WIRELESS MOBILE COMMUNICATION SESSIONS**

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September 9, 2005
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<input type="checkbox"/> NEW APPLICATION	<input checked="" type="checkbox"/> Interview Summary (4 Pages)
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<input type="checkbox"/> DIVISIONAL APP'N	
NAME OF INVENTOR(S): Dabak	RECEIPT DATE & SERIAL NO.: 09/591,888
TITLE OF INVENTION: IMPROVED RANDOM ACCESS PREAMBLE CODING FOR INITIATION OF WIRELESS MOBILE COMMUNICATION SESSIONS	FILING DATE: June 9, 2000
TI FILE NO.: TI-29324 DEPOSIT ACCT. NO.: 20-0888	
DATE FAXED: September 9, 2005	
DUE:	
ATTY/SEC'Y: Robert N. Rountree	

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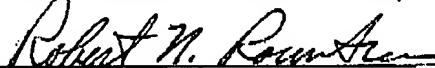
SEP 09 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Dabak**Attorney Docket No.: **TI-29324**Serial No.: **09/591,888**Examiner: **D.J. Ryman**Filed: **June 9, 2000**Art Unit: **2665**For: **IMPROVED RANDOM ACCESS PREAMBLE CODING FOR INITIATION OF
WIRELESS MOBILE COMMUNICATION SESSIONS**

INTERVIEW SUMMARY UNDER 37 CFR 1.133(b)

September 9, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450I hereby certify that the above correspondence is being facsimile
transmitted to the Patent and Trademark Office on September 9, 2005.
Robert N. Rountree, Reg. No. 39,347

Robert N. Rountree, Attorney for Applicants, contacted Examiner Ryman to request a telephonic interview with Examiner Ryman and his Supervisory Patent Examiner (SPE). The interview was granted on September 8, 2005, at 3:00 PM EST. A summary of that interview in the format of form PTOL-413 is given below as required by 37 CFR 1.133(b) when reconsideration is requested.

- (A) Application No.: 09/591,888
- (B) Applicant: Dabak
- (C) Examiner: D.J. Ryman
- (D) Date: September 8, 2005
- (E) Type: Telephonic
- (F) Attorney for Applicant: Robert N. Rountree, Reg. No. 39,347
- (G) No exhibit or demonstration was conducted.
- (H) Claims 1, 20, 25, and 47 were discussed.
- (I) Prior Art: Applicant's Admitted Prior Art (AAPA) and Scott et al. (USP 6,154,486).
- (J) Others present: SPE Huy D. Vu
- (K) The following issues were discussed.

Independent claims 1 and 20 are rejected under 35 U.S.C. § 103(a) over AAPA in view of Scott et al. Independent claims 25 and 47 are rejected for the first time under 35 U.S.C. § 101 as unpatentable subject matter. Independent claims 11, 23, and 30 are allowed.

Rountree objected to Examiner Ryman reopening prosecution with a New and Final Rejection after declining to Answer an Appeal Brief filed June 8, 2005. Examiner Ryman stated that the Final Rejection was necessitated by an amendment dated September 14, 2005.

Rountree reviewed the history of independent claims 1 and 20 as presented below.

10/30/03 Rejected under U.S.C. § 103(a) over AAPA in view of Minn et al. (USP 6,088,347).
02/24/04 Response without amendment.
04/02/04 Rejected under U.S.C. § 103(a) over AAPA in view of Minn et al. FINAL Rejection.
06/02/04 Response without amendment.
06/18/04 Withdraw FINAL; New Rejection under U.S.C. § 103(a) over AAPA + Scott et al. (USP 6,154,486).
09/14/04 Amended claims 1 and 20.

11/04/04 Rejected under U.S.C. § 103(a) over AAPA in view of Scott et al. in further view of De Gaudenzi et al. (USP 6,466,566).

01/24/05 Response without amendment.

02/16/05 Advisory Action; Rejected under U.S.C. § 103(a) over AAPA in view of Scott et al. in further view of De Gaudenzi et al.

06/08/05 Appeal Brief filed.

06/30/05 Reopen prosecution with FINAL Rejection under U.S.C. § 103(a) over AAPA in view of Scott et al. (Claims 1 and 20) and New Rejection under U.S.C. § 101 (Claims 25 and 47).

Rountree stated that claims 1 and 20 had been rejected 6 times with 4 different rejections and amended only once. Rountree reminded SPE Vu that "Switching ... from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination." (MPEP 706.07). Rountree further stated that the record shows that Examiner Ryman was wrong almost every time.

Rountree stated that "Under present practice, second and subsequent or any subsequent actions on the merits shall be final, **except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement.**" (emphasis added) (MPEP 706.07(a)). Rountree further stated that the amendment of September 14, 2004, **could not** have necessitated a FINAL Rejection, since it was perfected before the rejection of November 4, 2004, which was subsequently withdrawn.

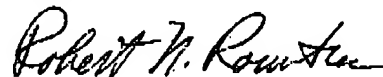
Rountree stated that claims 25 and 47 were patentable subject matter under U.S.C. § 101 for two reasons. First, the specification clearly documented that they described new and useful inventions in wireless communication. Rountree offered to send a joint publication from 1999 by Motorola and Texas Instruments (not Prior Art) to specifically show a histogram of cross correlation problems solved by the claimed invention. Second, both claims describe inventions that

fall within the Safe Harbor provision as stated in MPEP 2106. A process is statutory if it requires physical acts to be performed outside the computer independent of and following the steps to be performed by a programmed computer, where those acts involve the manipulation of tangible physical objects and result in the object having a different physical attribute or structure.

Diamond v. Diehr, 450 U.S. at 187, 209 USPQ at 8. Thus, if a process claim includes one or more post-computer process steps that result in a physical transformation outside the computer (beyond merely conveying the direct result of the computer operation), the claim is clearly statutory. For example, generating a preamble, as in claim 25, that is received by a remote base station establishes communications with the remote base station and evokes an acknowledgement. Both are post-computer process steps that result in a physical transformation outside the computer that produced the preamble.

For all the foregoing reasons, Rountree requested withdrawal of the present FINAL Rejection of June 30, 2005. SPE Vu stated he would discuss the matter with a specialist to see what could be done. SPE Vu contacted Rountree later on September 8, 2005, and stated that the FINAL Rejection of June 30, 2005, would be withdrawn and a Supplemental Action would be issued.

Respectfully submitted,



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